

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

JUSTIN DUFOE, on Behalf of Himself
and All Others Similarly Situated,

Lead Plaintiff,

v.

DRAFTKINGS INC., JASON D.
ROBINS, JASON K. PARK, and
MATTHEW KALISH,

Defendants.

Case No. 1:23-cv-10524-DJC

DEFENDANTS' MOTION TO DISMISS THE AMENDED COMPLAINT

Pursuant to Fed. R. Civ. P. 12(b)(6), Defendants DraftKings Inc., Jason D. Robins, Jason K. Park, and Matthew Kalish (“Defendants”), by and through undersigned counsel, hereby move to dismiss, with prejudice, all claims asserted against them in the Amended Complaint for Violation of the Federal Securities Laws (the “Complaint”) (ECF No. 38) filed by Plaintiff Justin Dufoe. This Motion is based on the accompanying Memorandum of Law, the Declaration of Andrew S. Dulberg in Support of Defendants’ Motion to Dismiss and the exhibits thereto, the records on file in this action, and any other written or oral argument that may be presented at or before the time this Motion is heard by the Court.

WHEREFORE, Defendants respectfully request that their Motion to Dismiss be granted and that an order be entered dismissing all claims against Defendants with prejudice.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), Defendants respectfully request oral argument on this Motion. Defendants believe that oral argument will assist the Court’s consideration of Defendants’ Motion to Dismiss, and Defendants would appreciate the opportunity for counsel to

address any issues raised by, or questions posed by, the Court. Defendants note that the Court has scheduled a hearing on the Motion for December 19, 2023. (ECF No. 37.)

Dated: September 25, 2023

Respectfully submitted,

/s/ Michael G. Bongiorno

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*Attorneys for Defendants DraftKings Inc.,
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RULE 7.1(A)(2) CERTIFICATE

I, Andrew S. Dulberg, hereby certify that I conferred with counsel for Plaintiff regarding this motion and have attempted in good faith to resolve or narrow the issue, but have been unable to do so.

/s/ Andrew S. Dulberg
Andrew S. Dulberg

CERTIFICATE OF SERVICE

I, Andrew S. Dulberg, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) dated September 25, 2023.

/s/ Andrew S. Dulberg
Andrew S. Dulberg